IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWPs No. 475, 476 and 581 of 2006

Date of decision: 12th April, 2007

CWP No.475 of 2006

Labh Singh vs State of H P & others

CWP No.476 of 2006

Mehar Singh vs State of H P & others

CWP No.581 of 2006

Pawan Kumar vs State of H P & others

Coram:

The Hon'ble Mr.Justice Deepak Gupta,J.

The Hon'ble Mr Justice Surinder Singh,J.

Whether approved for reporting ?[1]

For the Petitioners **Mr Sanjeev Bhushan, Advocate.**

For Respondents 1 to 4 **Mr M S Chandel, Advocate General with Mr Ram Murti Bisht, Deputy Advocate General.**

For respondent No.5 In CWP No. 581/06 **Mr Shrawan Dogra, Advocate.**

Deepak Gupta, J. (Oral)

By this common order, we shall dispose of three writ petitions, since the same question is involved in all the three cases.

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

The posts of Primary Assistant Teachers (PAT) in Government Primary Schools, ***Thalli Bijni***, ***Nalihara*** and ***Dyaridhar*** were vacant. These posts had to be filled up. Admitted case is that the Selection Committee was to consist of SDM Karsog, Block Primary Education Officer, Karsog and the Centre Head Teacher of the concerned centre. It is also not in dispute that two Centre Head Teachers, who were to be associated in the normal course with the selection process were the Centre Head Teachers working in ***Randhol*** and ***Shakra.***

The admitted facts are that in fact the Centre Head Teacher ***Balindi*** was associated in the selection process and was a member of the Selection Committee. The Selection Committee made its recommendations and the petitioners before this court were duly selected. Their selections were challenged before the learned Himachal Pradesh Administrative Tribunal, Shimla, by the private respondents and one of the grounds of challenge was that the selection Committee was not properly constituted since the Centre Head Teachers of ***Randhol*** and ***Shakra*** had not been involved in the process of selection and in their place Centre Head Teacher ***Balindi*** had been made member of the

selection Committee. The learned Vice Chairman of the Tribunal came to the conclusion that the selection Committee was not properly constituted and due to this patent material irregularity in constitution of the Committee, the selection of the petitioners was set aside.

In the writ petitions filed before this Court, the contention of the successful candidate(s) is that the Centre Head Teachers of *Randhol* and *Shakra* could not be associated with the selection process since the post of Centre Head Teachers at both the aforesaid places was lying vacant, at the time when the interviews were conducted. From time to time, we had been passing orders, directing the respondents, to file affidavit(s) and to make the position clear whether the posts of Center Head Teachers at Randhol and Shakra were lying vacant or not.

Today an affidavit has been filed by Smt. Ghummu Devi, Block Elementary Education Officer, Karsog-II, in which it has been stated as follows:

> ***"2. That as per office record the posts of Centre Head Teacher at Randhol and Shakra were vacant at the time of***

interview and no person were posted against these posts.

3. That as the posts of Centre Head Teacher at Randhol and Sharka were vacant at the time of interview so the Centre Head Teacher namely Sh. Rajinder Parsad of near by Schools i.e. Govt. Primary School, Blindi, were directed to act as member of the selection Committee.

4. That during the relevant time i.e. during interview there were vacations in the school, therefore, charge of these schools was given to Smt. Asha Devi, GPS Randhol and Sh. Vidhan Lal, GPS Shakra."

From the perusal of the aforesaid averments, made in the affidavit, it is absolutely clear that both the posts of Centre Head Teachers at Rondhol and Shakra were lying vacant, at the time when the interview was conducted. The law does not expect an impossibility to be done. When these posts were lying vacant obviously to constitute the Selection Committee the Centre Head Teacher of some other school in the vicinity had to be made member of the selection Committee. It is in this context

that the Centre Head Teacher of Government Primary School, Blindi, was directed to act as Member of the Selection Committee. In view of the aforesaid facts we have no option but to allow the writ petitions. The same are accordingly allowed. The orders of the learned Administrative Tribunal passed in **OAs No.**2142 of 2005, 2144 of 2005 and 2151 of 2005 dated 23.5.2006 are set aside. The learned Administrative Tribunal has set aside the selection order, only on the ground that the selection Committee was not properly constituted and the learned Tribunal has not gone into the other allegations leveled in the original applications.

We, therefore, after setting aside the orders of the learned Administrative Tribunal remit the cases back to the learned Tribunal to decide the other contentions raised in the Original Applications. The Registry is directed to send a copy of this order to the learned Tribunal.

CMPs No.777/06 in CWP 475/06,778/06 in CWP No.476/06 & 979/06 in CWP No.581/06

These applications do not survive in view of the order passed in the writ petition(s).

Interim order stands vacated. The applications are disposed of accordingly.

(Deepak Gupta),J.

April 12, 2007 (Surinder Singh),J.
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